



Appeal Decision

Site visit made on 1 May 2024

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/Q3115/W/23/3331958

Gardeners Cottage, Shepherds Green, Rotherfield Greys, Henley-on-Thames, Oxfordshire RG9 4QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Simon Chamberlain against the decision of South Oxfordshire District Council.
 - The application Ref is P23/S2397/S73.
 - The application sought planning permission for proposed single storey and two storey side and rear extensions. Remove existing garage and rebuild in a new position to include home/office in roof. Remove existing timber workshop. (As amended by plans 2023-03-20 to reduce and alter the form of extension and remove dormer from proposed garage and replace with rooflight) without complying with a condition attached to planning permission Ref P23/S0185/HH, dated 30 March 2023.
 - The condition in dispute is No 2 which states: That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans, 349-02 Rev B, 349-03 Rev B, 349-04 Rev B, 365-11, 349-05 Rev A, 349-01 and 349-06, except as controlled or modified by conditions of this permission.
 - The reason given for the condition is: To secure the proper planning of the area in accordance with Development Plan policies.
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Decision

1. The appeal is allowed and planning permission is granted for proposed single storey and two storey side and rear extensions. Remove existing garage and rebuild in a new position to include home/office in roof. Remove existing timber workshop. (As amended by plans 2023-03-20 to reduce and alter the form of extension and remove dormer from proposed garage and replace with rooflight) at Gardeners Cottage, Shepherds Green, Rotherfield Greys, Henley-on-Thames, Oxfordshire RG9 4QL in accordance with the application Ref P23/S2397/S73, without compliance with condition number 2 previously imposed on planning permission Ref P23/S0185/HH dated 30 March 2023 and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 349-02 Rev B, 349-03 Rev B, 349-03 Rev C, 349-04 Rev B, 365-11, 349-05 Rev A, 349-01 and 349-06.
 - 2) The exterior of the development hereby permitted shall only be constructed in the materials specified on the plans/supporting documents hereby approved or in the materials which shall previously have been approved in writing by the Local Planning Authority.

- 3) Prior to the first use of the roof terrace hereby approved, opaque screening of a minimum of 1.7m high shall be installed to the sides of the terrace, in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The screening shall be retained thereafter.
- 4) The exterior of the development hereby permitted shall only be constructed in the materials specified on the plans/supporting documents hereby approved or in materials which shall previously have been approved in writing by the Local Planning Authority.
- 5) The landscaping scheme as shown on the approved plan 365-11 shall be implemented prior to the first occupation or use of the approved development and thereafter be maintained in accordance with the approved scheme. In the event of any of the soft landscaping so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, replacement planting, as the case may be, of a species first approved by the Local Planning Authority, shall be planted and properly maintained in a position or positions first approved in writing by the Local Planning Authority.
- 6) The first floor bedroom window in the east facing elevation of the development hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight (or other means of opening to be first agreed in writing by the Local Planning Authority) prior to the first occupation of the accommodation and it shall be retained as such thereafter.

Background and Main Issue

2. The application subject to this appeal is made under Section 73 of the Planning Act for minor material amendments. The appellant seeks to build an extension of a revised but not substantially different design to that approved. The appeal seeks variation of condition 2 to specify the plans that reflect the amended designs.
3. The main issue is the effect of the proposed design amendments on the living conditions of the occupiers of the neighbouring properties, Shepherds and White Cottage, with particular regard to privacy.

Reasons

4. The appeal property comprises a detached two storey dwelling which is being extended to the side and rear. The appeal site is located in a group of properties which front an open green area. The spacious gardens of Shepherds and White Cottage directly adjoin the appeal site.
5. The proposed roof terrace would enable the occupiers of the appeal property to sit outside in a position which would be elevated above the neighbouring gardens. Therefore, sideways views towards the neighbouring gardens would be available which would differ from those from the garden or rear facing windows of the host property. The existing outbuilding to the east of the appeal property would limit views from the roof terrace towards the patio area directly to the rear of Shepherds. Whilst it is not proposed to be removed as part of the appeal scheme, were this to be removed in the future, the proposal would allow views of this area. Views would also be possible from the roof terrace

towards the garden of White Cottage, including the patio area closest to the house.

6. Whilst the roof terrace would be set in from the boundaries of the plot it would be sufficiently close to these private patio areas to result in a level of overlooking which would result in a harmful loss of privacy to the occupiers of both Shepherds and White Cottage.
7. However, were I to allow the appeal I could impose a condition requiring the provision of screening to the sides of the roof terrace which would restrict views towards these private patio areas. Whilst views towards the rear of the neighbouring gardens would still be possible, these areas are likely to be used less frequently than the areas adjacent to the house and are already subjected to a degree of overlooking from upper windows of neighbouring properties. Therefore, with screening in place I am satisfied that any overlooking which would occur from the roof terrace would not result in an unacceptable loss of privacy to the users of these gardens.
8. The roof terrace would be sufficient distance from the private areas of other nearby properties and gardens to ensure that there would not be an unacceptable loss of privacy to their occupants.
9. For the above reasons, I conclude that the proposed design amendments would not have a harmful effect on the living conditions of occupiers of the neighbouring properties, Shepherds and White Cottage with particular regard to privacy. Accordingly, the proposal would not conflict with Policy DES6 of the South Oxfordshire Local Plan 2011 – 2035 (Adopted December 2020). This seeks to ensure that development does not result in adverse impacts on the amenity of neighbouring uses including in relation to loss of privacy.

Other Matters

10. The site lies within the Chilterns National Landscape. Section 85 of the Countryside and Rights of Way Act 2000 (as amended) requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of NLs. The special qualities of the NL include attractive villages nestled in the landscape. The proposal is for relatively minor changes to the approved scheme and relates to development within the context of adjoining properties. I am therefore satisfied that the proposal would conserve the natural beauty of the NL. I note that the Council raised no concerns in this regard.
11. The site also lies within the Shepherds Green Conservation Area (CA) I therefore have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The conservation area is rural in character and the open areas and characterful dwellings within it contribute positively to its significance as a designated heritage asset. Bearing in mind the extent, nature and location of the proposed development, the character and appearance of the CA as a whole would be preserved. The Council raised no concerns in this regard.
12. Concerns have been raised in relation to the home office over the garage, and the overall size of the extended dwelling. However, in this appeal I am only considering the proposed revision to the design of the extension for which

planning permission has already been granted in relation to the provision of a roof terrace at the rear. Concerns have also been raised in relation to the effect of the French doors, however these were included in the plans which have already been approved. I note the concerns regarding the effect of the roof terrace on the character and appearance of the area. The proposal would have a relatively minor effect on the overall appearance of the host dwelling and would not appear incongruous or overly dominant. The Council did not consider that the proposal would adversely affect the character and appearance of the property or have any wider visual impact and I see no reason to disagree.

Conditions

13. A condition relating to the commencement of development is not necessary as the development has started. I have imposed a condition which specifies the approved plans in the interest of certainty. For the above reasons, a condition requiring a scheme to achieve the screening of both sides of the roof terrace is necessary to avoid an unacceptable loss of privacy to the occupiers of neighbouring properties. The appellant has suggested a lower height of screening however a height of 1.7m to be necessary in order to prevent sideways views when standing on the roof terrace.
14. The original condition Nos 3, 4 and 5 remain necessary to ensure the development is completed in suitable materials, is appropriately landscaped and that the side facing bedroom window is obscurely glazed in the interests of protecting the living conditions of the occupiers of the adjacent dwelling.

Conclusion

15. For the above reasons I conclude that the appeal should be allowed.

E Pickernell

INSPECTOR